

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2008-0440-MLM-E **TCEQ ID:** RN102131034 **CASE NO.:** 35543  
**RESPONDENT NAME:** Lake Whitney Resorts, LLC and Paul S. Bissing

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lake Whitney RV &amp; Golf, 255 Sun Country Drive, Hill County</p> <p><b>TYPE OF OPERATION:</b> On-site sewage facility at a recreational vehicle park</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on January 11, 2008, alleging that sewage was discharging out of the ground at the Site. There is no record of additional pending enforcement actions regarding this Site.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 1, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC 169, (254) 761-3034;  Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Paul S. Bissing, Director/Owner, Lake Whitney Resorts, LLC, P.O. Box 1577, Whitney, Texas 76692  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> January 11, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> December 5, 2007 and January 11, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 21, 2007 and February 13, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review and an investigation.</p> <p><b>WATER</b></p> <p>1) Failure to obtain proper authorization for the treatment and disposal of domestic wastewater [30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)].</p> <p><b>WASTE</b></p> <p>3) Failed to properly dispose of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(a)].</p>	<p><b>Total Assessed:</b> \$14,375</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$550 (remaining \$13,825 due in 35 monthly payments of \$395 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has three or more enforcement actions (NOVs) for the same violation over the prior five year period.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on March 5, 2008, the Respondents submitted an application to obtain approval for the discharge of wastewater under a Texas Pollutant Discharge Elimination System Permit.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges from the Site.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Remediate the areas where the unauthorized discharges occurred (Lot #202 on Holiday Rambler Drive, Lot #145 at the intersection of Ranchview Drive and Prevost Drive, and behind the community bathrooms on Holiday Rambler Drive); and</p> <p>ii. Remove all waste, including the metals, battery, telephone poles, tires, propane cylinders, asbestos-cement pile, and drum, and dispose of at a TCEQ authorized facility.</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a and b, in accordance with Ordering Provision f below.</p> <p>d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.</p> <p>e. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, in accordance with Ordering</p>

		Provision f below. f. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a through e.
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Additional ID No(s): OSS/1090816/CO







Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision February 29, 2008

TCEQ

DATES

Assigned 19-Feb-2008

PCW 14-Mar-2008

Screening 14-Mar-2008

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Reg. Ent. Ref. No. RN102131034

Facility/Site Region 9-Waco

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 35543

Docket No. 2008-0440-MLM-E

Media Program(s) Water Quality

Multi-Media Municipal Solid Waste

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 3

Order Type Findings

Enf. Coordinator Lynley Doyen

EC's Team Enforcement Team 1

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$12,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 15% Enhancement

Subtotals 2, 3, &amp; 7 \$1,875

Notes

The penalty is enhanced due to three NOV's with violations same or similar to those cited in this action.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondents do not meet the good faith criteria.

0% Enhancement\*

Subtotal 6 \$0

Total EB Amounts \$730  
Approx. Cost of Compliance \$6,650

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

Final Subtotal \$14,375

## OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$14,375

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$14,375

## DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

## PAYABLE PENALTY

\$14,375

Screening Date 14-Mar-2008

Docket No. 2008-0440-MLM-E

PCW

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Policy Revision 2 (September 2002)

Case ID No. 35543

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102131034

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty is enhanced due to three NOVs with violations same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 15%

Screening Date 14-Mar-2008

Docket No. 2008-0440-MLM-E

PCW

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Policy Revision 2 (September 2002)

Case ID No. 35543

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102131034

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.42(a) and Tex. Water Code § 26.121(a)

Violation Description

Failed to obtain proper authorization for the treatment and disposal of domestic wastewater, as documented during a record review on December 5, 2007. Specifically, the Respondents treated and disposed of more than 5,000 gallons of sewage per day on one piece of property, requiring a consolidated Texas Pollutant Discharge Elimination System ("TPDES") permit.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
	Major	Moderate	Minor
Release Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 4

100 Number of violation days

mark only one  
with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$4,000

Four monthly events are recommended from the record review date (December 5, 2007) to the screening date (March 14, 2008).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$647

Violation Final Penalty Total \$4,600

This violation Final Assessed Penalty (adjusted for limits) \$4,600

## Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Case ID No. 35543

Reg. Ent. Reference No. RN102131034

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$5,000	29-Aug-2006	31-Mar-2009	2.6	\$647	n/a	\$647
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with obtaining a TPDES permit. Date required is the date the Respondents were first notified to obtain a permit. Final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$647

Screening Date 14-Mar-2008

Docket No. 2008-0440-MLM-E

PCW

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Policy Revision 2 (September 2002)

Case ID No. 35543

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102131034

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on January 11, 2008. Specifically, the investigator observed wastewater discharging from the following locations: Lot #202 on Holiday Rambler Drive, Lot #145 at the intersection of Ranchview Drive and Prevost Drive, and behind the community bathrooms on Holiday Rambler Drive. Samples taken of the discharges indicated >2,000,000 most probable number/100 milligrams per liter for Escherichia coli.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 3

63

Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Three monthly events are recommended from the investigation date (January 11, 2008) to the screening date (March 14, 2008).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$77

Violation Final Penalty Total \$8,625

This violation Final Assessed Penalty (adjusted for limits) \$8,625

## Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Case ID No. 35543

Reg. Ent. Reference No. RN102131034

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment	\$1,000	11-Jan-2008	31-Oct-2008	0.8	\$3	\$54	\$56
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$500	11-Jan-2008	31-Oct-2008	0.8	\$20	n/a	\$20
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the wastewater, disinfect the contaminated area, and make repairs to the septic system to prevent future unauthorized discharges. Date required is the investigation date. Final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$77

Screening Date 14-Mar-2008

Docket No. 2008-0440-MLM-E

PCW

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Policy Revision 2 (September 2002)

Case ID No. 35543

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102131034

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 330.15(a)

Violation Description

Failed to properly dispose of municipal solid waste, as documented during an investigation conducted on January 11, 2008. Specifically, the investigator observed assorted metals, a battery, telephone poles, tires, propane cylinders, an asbestos-cement pile, and a drum with unknown contents totaling approximately ten cubic yards disposed of on the Site.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

63 Number of violation days

mark only one  
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on the investigation date (January 11, 2008) to the screening date (March 14, 2008).

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

## Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC and Paul S. Bissing

Case ID No. 35543

Reg. Ent. Reference No. RN102131034

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$150	11-Jan-2008	31-Oct-2008	0.8	\$6	n/a	\$6
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the items at the illegal dump site. Date required is the investigation date. Final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$6



# Compliance History

Customer/Respondent/Owner-Operator:	CN601159247	BISSING, PAUL S	Classification:	Rating:
Regulated Entity:	RN102131034	LAKE WHITNEY RV & GOLF	Classification:	Site Rating:
ID Number(s):	ON SITE SEWAGE FACILITY	PERMIT	1090816	
Location:	255 SUN COUNTRY DR, HILL CO, TX			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	March 05, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 05, 2003 to March 05, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Lynley Doyen	Phone: 512-239-1364			

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 10/29/2003 (150972)  
2 10/27/2006 (514505)  
3 01/16/2007 (531306)  
4 02/20/2008 (619095)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/09/2004 (263559)

Self Report? NO  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
Description: Failure to prevent an unauthorized discharge.

Classification: Minor

Date: 08/29/2006 (490192)

Self Report? NO  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 285, SubChapter A 285.3(g)(1)  
5B THC Chapter 366, SubChapter A 366.0512(2)  
Description: Failure to obtain a General Permit for Waste Discharges for systems that cumulatively treat and dispose of more than 5,000 gallons of sewage per day on one piece of property.

Classification: Moderate

Self Report? NO  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
Description: Failure to prevent the discharge of domestic sewage into or adjacent to waters of the state.

Classification: Moderate

Date: 12/07/2006 (534487)

Self Report? NO  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
Description: Failure to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Classification: Moderate

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
LAKE WHITNEY RESORTS, LLC  
AND PAUL S. BISSING  
RN102131034

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0440-MLM-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lake Whitney Resorts, LLC and Paul S. Bissing ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondents own and operate an on-site sewage facility at a recreational vehicle park located at 255 Sun Country Drive in Hill County, Texas (the "Site").



2. The Respondents have discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. During a record review on December 5, 2007, TCEQ staff documented that the Respondents treated and disposed of more than 5,000 gallons of sewage per day on one piece of property.
5. During an investigation on January 11, 2008, TCEQ staff observed wastewater discharging from the following locations: Lot #202 on Holiday Rambler Drive, Lot #145 at the intersection of Ranchview Drive and Prevost Drive, and behind the community bathrooms on Holiday Rambler Drive. Samples taken of the discharges indicated >2,000,000 most probable number/100 milliliters for Escherichia coli.
6. During an investigation on January 11, 2008, TCEQ staff observed assorted metals, a battery, telephone poles, tires, propane cylinders, an asbestos-cement pile, and a drum with unknown contents totaling approximately ten cubic yards disposed of on the Site.
7. The Respondents received notices of the violations on December 26, 2007 and February 18, 2008.
8. The Executive Director recognizes that on March 5, 2008, the Respondents submitted an application to obtain approval for the discharge of wastewater under a Texas Pollutant Discharge Elimination System ("TPDES") Permit.

## II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 4, the Respondents failed to obtain proper authorization for the treatment and disposal of domestic wastewater, in violation of 30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121(a).
3. As evidenced by Findings of Fact No. 5, the Respondents failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a).
4. As evidenced by Findings of Fact No. 6, the Respondents failed to properly dispose of municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.15(a).



5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Fourteen Thousand Three Hundred Seventy-Five Dollars (\$14,375) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondents have paid Five Hundred Fifty Dollars (\$550) of the administrative penalty. The remaining amount of Thirteen Thousand Eight Hundred Twenty-Five Dollars (\$13,825) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Ninety-Five Dollars (\$395) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondents to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms of this Agreed Order.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondents are assessed an administrative penalty in the amount of Fourteen Thousand Three Hundred Seventy-Five Dollars (\$14,375) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lake Whitney Resorts, LLC and Paul S. Bissing, Docket No. 2008-0440-MLM-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.





3. The Respondents shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges from the Site.
  - b. Within 30 days after the effective date of this Agreed Order:
    - i. Remediate the areas where the unauthorized discharges occurred (Lot #202 on Holiday Rambler Drive, Lot #145 at the intersection of Ranchview Drive and Prevost Drive, and behind the community bathrooms on Holiday Rambler Drive); and
    - ii. Remove all waste, including the metals, battery, telephone poles, tires, propane cylinders, asbestos-cement pile, and drum, and dispose of at a TCEQ authorized facility.
  - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a and 3.b, in accordance with Ordering Provision No. 3.f below.
  - d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.
  - e. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, in accordance with Ordering Provision No. 3.f below.
  - f. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a through 3.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:



Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If the Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.



10. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



Lake Whitney Resorts, LLC and Paul S. Bissing  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John Bradley*  
For the Executive Director

9/27/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Lake Whitney Resorts, LLC and Paul S. Bissing. I am authorized to agree to the attached Agreed Order on behalf of Lake Whitney Resorts, LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Lake Whitney Resorts, LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Paul S. Bissing*  
Signature

5/29/08  
Date

PAUL S. BISSING  
Name (Printed or typed)  
Authorized Representative of  
Lake Whitney Resorts, LLC

Owner  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.





Lake Whitney Resorts, LLC and Paul S. Bissing  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John S. Boring*  
For the Executive Director

9/27/2008  
Date

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- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Paul S. Bissing*  
Signature

5/29/08  
Date

PAUL S. BISSING

Name (Printed or typed)  
Authorized Representative of  
Paul S. Bissing

owner  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

